

Commodity Futures Trading Commission
CEA CASES

NAME: BEAR, STEARNS & CO. AND NORMAN G. FINE

DOCKET NUMBER: 232

DATE: JUNE 25, 1974

DOCUMENT TYPE: COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Bear, Stearns & Co. and Norman G. Fine, Respondents

CEA Docket No. 232

Complaint and Notice of Hearing Under the Commodity Exchange Act

There is reason to believe that the respondents have violated the Commodity Exchange Act as amended (7 U.S.C. Chapter I), and, in accordance with the provisions of sections 6(b), and 6(c) of the Commodity Exchange Act (7 U.S.C. 9, 13b), this Complaint and Notice of Hearing is issued stating the charges in that respect as follows.

I

(a) Bear, Stearns & Co., a partnership organized in the state of New York with its principal place of business at 55 Water Street, New York, New York, is now and was at all times material herein a registered futures commission merchant under the Commodity Exchange Act.

(b) Norman G. Fine, an individual whose business address is the same as that of Bear, Stearns & Co., is now and was at all times material herein a general partner of respondent Bear, Stearns & Co. and was responsible for the management, direction and control of its activities relating to the trading of customers in regulated commodities.

II

Respondents are now and were at all times material herein engaged in the business of futures commission merchant and, in the regular course of such business, carried accounts of customers who traded in commodity futures on contract markets subject to the provisions of the Commodity Exchange Act and the regulations thereunder. Such accounts, the trading therein, and the handling and disposition of funds in connection therewith, were subject to the provisions of the Act and regulations. At all such times, the respondent firm had to its credit with banks or other depositories, money in varying amounts, held in segregated accounts and identified as customers' funds representing deposits of margin by and trading profits accruing to such customers.

III

During the period from December 17, 1973 to February 27, 1974, respondents failed on 24 business days to make any computation or permanent record, as of the close of the market on each such business day, of the amount of money, securities, and property required to be held in segregated account in order to pay all credits and equities due to its customers, as provided in section 1.32 of the regulations under the Commodity Exchange Act (17 CFR 1.32).

IV

On February 11, 1974, February 12, 1974, March 8, 1974, March 11, 1974, and April 3, 1974, the respondent firm was undersegregated; that is, on the days mentioned the total amount of customers' funds held in segregation as described in paragraph II was less than the amount necessary to pay all credits and equities due to such customers. As of the dates mentioned, such deficits amounted to approximately \$ 133,730, \$ 1,207, \$ 45,133, \$ 100,040, \$ 48,667 respectively.

V

On December 13, 1973, Mr. T. Reed McMinn, Director, Eastern Region, Commodity Exchange Authority sent to respondents a letter calling attention to the fact that as of November 26, 1973, the firm had not prepared a daily segregation record for any day in November 1973 up to that date. The letter stated that its purpose was to notify the futures commission merchant and its general partner, Norman G. Fine, of these findings and "to afford your firm the opportunity to take the necessary corrective action in order to achieve compliance with [section 1.32 of the regulations under the Commodity Exchange Act]." Such letter was received by respondents on December 17, 1973.

VI

By reason of the facts alleged in this Complaint, the respondents willfully violated section 4d(2) and 4g of the Commodity Exchange Act (7 U.S.C.

6d(2), 6g) and sections 1.20(a), 1.23 and 1.32 of the regulations of the Secretary of Agriculture thereunder (17 CFR 1.20(a), 1.23, 1.32).

WHEREFORE, it is hereby ordered that this Complaint and Notice of Hearing be served on the respondents. The respondents will have twenty (20) days after the receipt of this Complaint in which to file with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, an answer with an original and four copies, fully and completely stating the nature of the defense and admitting or denying, specifically and in detail, each allegation of this Complaint. Allegations not answered will be deemed admitted for the purposes of this proceeding. Failure to file an answer will constitute an admission of all the allegations of this Complaint and a waiver of hearing. The filing of an answer in which all of the material allegations of fact contained in the Complaint are admitted likewise shall constitute a waiver of hearing unless a hearing is requested. The respondents are hereby notified that unless hearing is waived, a hearing will be held at a time and place to be specified later, before an Administrative Law Judge designated to conduct such hearing. At such hearing, the respondents will have the right to appear and show cause, if any there be, why an appropriate order should not be issued in accordance with the Commodity Exchange Act, (1) prohibiting the respondents from trading on or subject to the rules of any contract market, and directing that all contract markets

refuse all trading privileges to the respondents for such period of time as may be determined, (2) directing that the respondents shall cease and desist from violating the Commodity Exchange Act in the manner alleged herein, and (3) suspending or revoking the registration of respondent Bear, Stearns & Co., as futures commission merchant.

It is ordered that this Complaint and Notice of Hearing be served on the respondents at least twenty (20) days prior to the date set for hearing.

June 25 1974

[SEE SIGNATURE IN ORIGINAL]

RICHARD L. FELTNER

Assistant Secretary

LOAD-DATE: June 16, 2008

